

# PATENT COOPERATION TREATY



## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference PAN011BWO	<b>FOR FURTHER ACTION</b> See Form PCT/PEA/416	
International application No. PCT/EP2004/009667	International filing date (day/month/year) 30.08.2004	Priority date (day/month/year) 19.11.2003
International Patent Classification (IPC) or national classification and IPC INV. A61K7/48 A61K47/24		
Applicant BIO.LO.GA. S.R.L. et al		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand  17.06.2005	Date of completion of this report  03.04.2006	
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer  Menidjel, R  Telephone No. +31 70 340-3680 	

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

 International application No.  
PCT/EP2004/009667

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**Box No. I Basis of the report**


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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-13 as originally filed

**Claims, Numbers**

1-15 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
    - ☐ the description, pages
    - ☐ the claims, Nos.
    - ☐ the drawings, sheets/figs
    - ☐ the sequence listing (*specify*):
    - ☐ any table(s) related to sequence listing (*specify*):
  4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
    - ☐ the description, pages
    - ☐ the claims, Nos.
    - ☐ the drawings, sheets/figs
    - ☐ the sequence listing (*specify*):
    - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	1-15
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement.**

1. The following documents (D1,D2) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: EP-A-1 074 243 (AUSIMONT SPA) 7 February 2001 (2001-02-07)

D2: EP-A-0 390 206 (AUSIMONT S.R.L; AUSIMONT S.P.A) 3 October 1990 (1990-10-03)

**2. Novelty (Article 33(2) PCT)**

- The subject-matter of present claims 1-15 is considered as novel over the cited prior art for the following reasons (Article 33(2) PCT):

None of the cited documents refers to the use of perfluoropolyether phosphates as stabilizing agents for polyphenols in cosmetic and/or dermatological compositions for topical application (see independent claim 1) and to a cosmetic and/or dermatological composition comprising as active substances, polyphenols, characterized by containing as stabilizing agent an effective amount of at least one perfluoropolyether phosphate (see independent claim 5).

**3. Inventive Step (Article 33(1),(3) PCT)**

- The subject-matter of present claims 1-15 is considered as being inventive for the following reasons (Article 33(1),(3) PCT):

- The problem to be solved by the present application is to provide a new stabilizing agent for the polyphenols, allowing the achievement of cosmetic or dermatological formulations for topical use (see description on page 4, lines 10-12).

- The solution proposed in the present application consists in the use of perfluoropolyether phosphates as stabilizing agents for polyphenols in cosmetic and/or dermatological compositions (see independent claim 1) and a cosmetic and/or dermatological composition comprising as active substances, polyphenols, characterized by containing as stabilizing agent an effective amount of at least one perfluoropolyether phosphate (see independent claim 5).

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(SEPARATE SHEET)**

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- Document D1, which is considered as the closest prior art, describes a cosmetic base composition (premix) comprising a perfluoropolyether phosphate, a solvent and water. The composition may comprise alcohols (Cf. D1, the whole document).
- The difference between the teaching of the closest prior art and the claimed subject-matter appears to be the presence of a polyphenol in the claimed cosmetic composition and the stabilizing effect on said polyphenols by using perfluoropolyether phosphates.
- Starting from D1, the skilled person had no incentive to come to the claimed solution and therefore, the subject-matter of present claims 1-15 is considered as inventive according to Article 33(1),(3) PCT.

**4. Industrial Application (Article 33(4) PCT)**

- The subject-matter of present claims 1-15 is considered to be industrially applicable; claims 1-15 therefore, satisfy the criterion set forth in Article 33(4) PCT.

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